

**207 Use Standards**

**207.010 Accessory Apartments.** Accessory apartments must comply with the following standards:

- (A) The accessory apartment shall be clearly a subordinate part of the single-family dwelling. In no case shall it be more than thirty (30) percent of the building's total floor area nor greater than eight hundred (800) square feet nor have more than two (2) bedrooms.
- (B) The principal unit shall have at least 850 square feet of living space remaining after creation of the accessory apartment exclusive of garage area. Accessory apartments shall have at least 500 square feet of living space. Living space square footage for the accessory apartment shall be exclusive of utility rooms, common hallways, entryways or garages. Living space for the accessory apartment shall include a kitchen or cooking facilities, a bathroom and a living room.
- (C) No front entrances shall be added to the house as a result of the accessory apartment permit.
- (D) The house must be owner-occupied.
- (E) A minimum of three off-street parking spaces must be provided, two of which must be enclosed.
- (F) The accessory apartment and principal unit must meet the applicable standards and requirements of the Shoreview's Development Code, Building Code, Ramsey County Health Codes and Fire Codes.
- (G) The building and property shall remain in single ownership and title and shall only have one mailing address.
- (H) Only one accessory apartment permit may be issued per detached single family home.

**207.020 Home Occupations.** Home occupations must comply with the following standards:

- (A) No signs shall be permitted on or off the premises.
- (B) No outdoor storage or display of materials shall be permitted.
- (C) No home occupation shall have an adverse affect on adjacent properties due to excessive traffic or offensive noise, light, odor, dust or other noxious substances. If the home occupation will require a delivery service, such as

UPS, no more than six delivery/pickup trips per week shall be permitted. Delivery vehicles shall not be larger than a typical step van. Customer visitation to the premises of the home occupation shall be by appointment only.

- (D) Adequate off-street parking must be provided for customers and for those who reside on the premises. All required parking spaces shall be located on an asphalt or bituminous surface, which is in character with the surrounding residential neighborhood.
- (E) Employment shall be restricted to persons who reside on the premises.
- (F) If customers will visit the premises, the areas accessible to customers shall comply with all applicable life safety codes.
- (G) The home occupation must be clearly accessory to the principal use of the structure as a dwelling unit.
- (H) There shall be no exterior evidence of the presence of the home occupation on the premises.
- (I) The home occupation shall not occupy more than 20% of the dwelling unit's floor area.

**207.030 Temporary Sales or Events.** Temporary sales or events must comply with the following standards:

- (A) Health, Safety, and Welfare. The proposed sale or event shall not cause a public nuisance because of noise, air pollution, traffic congestion, or failure to properly maintain the site. Any proposed temporary sale or event shall comply with all relevant building, fire, and safety codes.
- (B) Location. Temporary sales or events may be located on land associated with commercial, public, or quasi-public uses. Seasonal residential sales may only be permitted within residential districts.
- (C) Duration. Temporary sales by temporary vendors or established merchants may be permitted for up to seven (7) consecutive days. Seasonal residential sales are permitted for up to four (4) consecutive days. Seasonal sales of seasonal merchandise or sales are permitted for up to sixty (60) days. Carnivals or fairs may be permitted for up to seven (7) consecutive days. These durations should be considered maximums and permits issued may be approved for shorter durations if necessary to protect public health, safety, and welfare. These durations may be extended by action of the City Council after review by the Planning Commission.

- (D) Hours of Operation. Hours of operation for temporary sales and events must be between 7:00 a.m. and 10:00 p.m.
- (E) Parking and Traffic. Ample parking must be provided on site to accommodate expected visitors. The sale or event shall not cause a traffic hazard.
- (F) Signage. A maximum of one sign is permitted per temporary event. This sign shall be located on private property (not in the public right-of-way). The sign shall not exceed 32 square feet in area or 6 feet in height. The sign location shall not interfere with intersection sight distances or cause a traffic hazard.
- (G) Site Maintenance and Restoration. The applicant shall be responsible for maintaining and cleaning the site utilized for the temporary sale or event and restoring it to its original condition. If the City Manager determines that it is necessary, the applicant may be required to post a financial security to ensure site maintenance and/or restoration.

#### **207.040 Towers and Antennas.**

##### **(A) Private Antennas.**

##### **(1) Permit Requirements. A private antenna/tower permit is required for:**

- (a) Any antennas more than 10 feet in height attached to an existing structure except those antennas exempted from local zoning authority by federal regulations.
- (b) Any antenna attached to a free-standing tower of any height.
- (c) Any dish antenna greater than one meter in diameter that does not meet the standards in the following Section 207.040(A)(2).

##### **(2) Standards.**

- (a) All antennas or other devices used for transmitting or receiving signals must comply with Federal Communication Commission procedures to resolve any complaints relating to interference allegedly caused by a private antenna/tower.
- (b) Antennas, except antennas used for amateur or citizen band radio communication:
  - (i) The height is no greater than 10 feet above the roof or more than 40 feet above mean ground level.

- (ii) A building permit is obtained prior to installation to verify compliance with applicable building, fire, and safety codes.
  - (iii) The ground-level view of the device is screened from contiguous properties and adjacent streets.
- (c) For amateur and citizen band radio facilities.
- (i) Height. The maximum height for amateur or citizen band radio antennas and/or towers shall not exceed 75 feet. In addition, that portion of any antenna or tower over 55 feet must be retractable to a height no greater than 55 feet.
  - (ii) Lowering Device. All amateur radio facilities capable of a maximum extended height of more than 55 feet shall be equipped with a mechanical device capable of lowering the facility to the maximum permitted height when not in operation.
  - (iii) Number Permitted. One amateur radio facility is permitted per property.
  - (iv) Siting/Setbacks. All amateur radio facilities shall be located in a manner that minimizes the visibility of the facility from nearby properties and adjacent streets. No portion of facility shall be located within a required principal structure setback or in a yard abutting a public right-of-way. In addition, any free-standing tower must be set back at least one foot from adjacent residential units for each foot in height or provide documentation acceptable to the City Planner that all adjacent residential units are outside the tower's fall zone.
  - (v) Color/Screening. The color of the amateur radio facilities shall blend with the surrounding environment and must be screened with trees and landscaping to the extent possible.
  - (vi) Deviation from Standards. Deviation from the height and setback standards may be allowed if the applicant can demonstrate that compliance with these standards would unreasonably limit or prevent reception or transmission of signals and a conditional use permit is obtained in addition to the private antenna/tower permit.

(B) Commercial Antennas and Towers.

(1) Permit Requirements.

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- (a) If the proposed antenna/tower is to be used for wireless telecommunications, a wireless telecommunications facility permit must be obtained in accordance with Section 203.044.
- (b) A building permit is required for any installation, expansion, or modification of a wireless telecommunications facility and for any commercial tower. A building permit is required for commercial antennas other than wireless telecommunication antennas if required by the Building Code.
- (c) A conditional use permit may be required for certain commercial antennas or towers as required by the zoning district.

(2) Commercial Antenna Standards.

- (a) The antennas must be located on or attached to an existing structure.
- (b) The height shall not exceed 6 feet above the roof.
- (c) The antennas, to the extent possible, use materials, colors, textures, screening, and landscaping to blend in with the surrounding natural setting and built environment.

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- (d) Wireless telecommunication antennas shall also comply with the standards in Section 207.040(B)(3).

(3) Wireless Telecommunication Facility Standards (WTFs).

- (a) Siting. New WTFs shall only be located on parcels that fall within the Telecommunications Overlay District. WTFs are not permitted in public rights-of-way.
- (b) Color, Camouflage and Architecture. All WTFs shall be camouflaged and use architectural design, materials, colors, textures, screening, and landscaping to blend in with the surrounding natural setting and built environment. If a WTF is proposed on any part of a building or structure, it must blend with the building or structure's design, architecture and color, including exterior finish. All WTFs shall utilize color, architecture and camouflage to minimize the visual impact and, in the sole discretion of the City Council, so appear compatible with the surroundings:
  - (i) Color. The WTF shall use colors to minimize the visual impact when viewed from adjacent public streets and nearby property, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

- (ii) Camouflage. The WTF shall, to the extent practicable, simulate objects that typically occur in landscapes similar to the proposed location, except for billboards, electrical transmission facilities or telecommunications towers, and similar constructions. Examples of camouflage designs include flagpoles, sport field lighting poles, trees, monuments, and on buildings, steeples, parapets and rooftop penthouses.
    - a. Utility cabinets shall be placed in underground vaults or integrated within existing structures, unless the City determines an above-grade installation is appropriate for the site.
    - b. Freestanding, above grade equipment cabinets shall be heavily screened from view with landscape materials.
  - (iii) Architecture. The WTF shall be designed to blend in with the surrounding natural setting and build environment.
    - a. Towers shall use antennas, antenna mounts, equipment enclosures and monopoles that provide minimal visual profile and silhouette, in order to reduce visual clutter. For example, underground cable routing is less visually intrusive than using overhead cables with metal bridging for ice-fall protection; cylindrical unicell antenna arrays are preferred over davit arms or other types of mounting brackets extending out from the monopole; platform mounted antennas are generally discouraged.
    - b. Building mounted wireless telecommunications facilities shall be screened from view or camouflaged in a manner to generally comply with the Architectural and Site Design Standards specified in Chapter 206.050.
- (c) Landscaping. Except in the TOD-3, WTFs shall be landscaped with a buffer of plant materials as determined appropriate for the site by the City. Existing mature trees and other vegetation at the site shall be preserved to the maximum extent possible.
- (d) Signs. The use of any portion of a WTF for signs or advertising other than warning or small equipment and emergency contact information signs is prohibited.
- (e) Lighting. Wireless telecommunication antennas or towers shall not be illuminated by artificial means and shall not display lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority. When incorporated into the

approved design of the WTF, light fixtures used to illuminate sport fields, parking lots or similar areas may be attached to the tower.

(f) Monopole. New wireless telecommunication towers shall be of a monopole design unless the applicant demonstrates to the satisfaction of the City Council that an alternative design would better blend into the surrounding environment.

(g) Tower Setbacks. Wireless telecommunications towers shall comply with the principal structure setbacks of the underlying zoning district and the following additional standards:

(i) The tower is set back from all residential dwellings units at least one foot for each foot in height.

(ii) Tower shall not co-occupy any easements unless permission is obtained from the underlying property owner and holder of the easement.

(iii) Tower shall not be located between a principal structure and a public street.

(iv) The required tower setbacks may be reduced or the location in relation to a public street modified, at the sole discretion of the City, when the WTF is integrated into an existing or proposed structure such as a building, light or utility pole.

(h) Height.

(i) The height of any commercial telecommunications tower shall not exceed 60 feet in the TOD-1 district and 75 feet in the TOD-2 district.

(ii) Antennas located in the TOD-1 and TOD-2 on an existing structure which exceeds the maximum telecommunications tower height for the District in which the existing structure is located may extend up to 5 feet above the height of the structure.

(iii) In the event substantial obstacles to RF signal propagation are present within 1000 feet of the proposed WTF, the telecommunications tower height may be increased an additional 20% above the maximum height permitted in the TOD. No such increase in height will be permitted unless the applicant's proposed design utilizes color, architecture and camouflage to minimize the visual impact and, in the sole discretion of the City Council, so appear in context on the landscape.

(iv) WTFs mounted on an existing building in the TOD-3 shall:

- a. Roof mounted WTF are preferred near the center of the building in a location that minimizes visibility from the surrounding area.
- b. Roof mounted WTF shall extend a maximum of 10 feet above the height of the building to which they are attached, and be setback from the building façade a minimum of 2 feet for each foot of height the WTF extends above the building roof, with a minimum setback of 5 feet.
- c. Wall mounted WTF shall not extend above the building parapet, and shall be incorporated into design elements of the building to maintain architectural integrity.
- d. Deviations from the height and façade setback requirements may be approved when, in the sole discretion of the City Council, the WTF is fully concealed in an aesthetically integrated building component, for example a steeple, parapet extension, chimney, penthouse or similar architectural feature.
- e. Roof mounted WTFs shall be exempt from the building height regulations for the underlying zoning district, subject to the approval of the Lake Johanna Fire Department.

(i) Safety/Environmental Standards.

- (i) Unauthorized Climbing. WTFs shall be designed to prevent unauthorized climbing or entry.
- (ii) Noise. If the proposed WTF includes a back-up generator or otherwise results in significant increased sound levels, sound buffers may be required including, but not limited to, baffling, barriers, enclosures, walls, and plantings, so that the WTF is operated in compliance with the requirements specified in Section 209.020, *Noise*.
- (iii) Radio Frequency (RF) Emissions and Interference. WTFs shall comply with Federal Communication Commission standards for RF emissions and interference. WTFs shall be tested for compliance with FCC RF emissions standards after the WTF has been installed.

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- (v) Maintenance. All commercial towers or WTFs shall at all times be kept and maintained in good condition, appearance, order, and repair so that the same shall not menace or endanger the life or property of any person.
- (vi) Occupational Safety. WTFs shall comply with applicable State of Minnesota and Federal regulations for occupational exposure to non-ionizing radiation.
- (j) Location and Collocation Requirements. Except as herein and after provided, WTFs within the City shall comply with the following collocation requirements:
- (i) Locations are preferred by the City in the following priority:
- Collocation on existing wireless telecommunications towers;
  - Location on City property in the TOD-1 and TOD-2;
  - Location on existing buildings in the TOD-3;
  - Location on other property in the TOD-1 and TOD-2.
- (ii) All proposed WTFs must be located on an existing structure 55 feet or greater in height located within ½ mile of the site being considered by the applicant.
- (iii) All wireless telecommunication providers shall cooperate with each other in collocating WTFs and shall exercise good faith in collocating with other licensed carriers and in the sharing of sites, including the sharing of technical information to evaluate the cost and feasibility of collocation. In the event that a dispute arises as to a collocation issue, the City may require a third-party technical study to evaluate the feasibility or cost of collocating at the expense of either or both wireless telecommunication providers.
- (iv) All new and replacement wireless telecommunications towers and any pre-existing towers owned by a wireless telecommunication provider shall be made available for use by the owner or initial user thereof, together with as many other licensed carriers as can be technically located thereon.
- (v) All new or replacement wireless telecommunication towers shall be designed, structurally, electrically, and in all other respects, to accommodate both the applicant's antennas and comparable antennas for at least one additional user, except when the applicant demonstrates that a monopole with conforming height is technologically unsuitable for the facilities of a second provider.

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- (k) Exceptions to Location Requirements. The City may waive any or all of the collocation requirements if it is determined that:
- (i) The planned WTF would exceed the structural capacity of the existing or approved structure, as documented by a qualified and licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment.
  - (ii) The planned WTF would cause interference materially impacting the usability of other existing or planned WTFs at the structure as documented by a qualified radio frequency engineer selected by the City and the interference cannot be prevented.
  - (iii) Existing structures within the applicant's search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer selected by the City.
- (4) Equipment Enclosures. Equipment enclosures accessory to a commercial antenna or WTF shall comply with the following standards:
- (a) Equipment enclosures shall be of the smallest size necessary.
  - (b) In the TOD-1 and TOD-2:
    - (i) Equipment enclosures shall be located in underground vaults, integrated within existing nearby structures, or where existing trees, structures, and/or other site features screen them from view.
    - (ii) All equipment enclosures shall be screened from view by suitable vegetation, except where non-vegetative screening (e.g., a decorative wall) better reflects and complements the character of the neighborhood.
  - (c) In the TOD-3, building mounted WTF equipment enclosures shall be integrated with the building architecture as specified in Section 207.040(B)(3)(b).
- (5) Installation Requirements on City Water Towers. Installation of commercial antennas or WTFs on City water towers will be permitted when the City is fully satisfied that the following requirements are met:
- (a) The commercial antenna or WTF or maintenance thereof will not increase the risks of contamination to the City's water supply, or risk to the water tower facilities.

- (b) There is sufficient room on the structure and/or grounds to accommodate the proposed commercial antenna or WTF.
- (c) The presence of the commercial antenna or WTF will not increase the water tower maintenance or operational costs to the City.
- (d) The presence of the commercial antenna or WTF will not be harmful to the health of workers maintaining the water tower.
- (e) All state and federal regulations pertaining to non-ionizing radiation and other health hazards has been satisfied.

**207.050 Nonconformities.**

(A) Purpose. The purposes for the City's Nonconforming Use Regulations are:

- (1) To recognize the existence of uses, structures and lots which were lawfully established but which do not currently comply with the City's Development Regulations.
- (2) To prohibit the enlargement, expansion or extension of nonconforming principal uses and structures.
- (3) To regulate nonconforming uses and structures that are located in flood hazard areas in a manner consistent with State and Federal regulations in order to preserve the public health, safety and welfare.

(B) Nonconforming Use Restrictions.

- (1) A nonconforming use shall not be enlarged or extended to occupy a greater area of land or a larger portion of a structure, but may continue at the size, intensity and in the manner of operation existing upon the date on which the use became nonconforming.
- (2) A nonconforming use may be changed to lessen the nonconformity of the use.
- (3) When a nonconforming use has been changed to a conforming use, it shall thereafter comply with the City's Development Ordinance.
- (4) A nonconforming use shall not be re-established if discontinued for a continuous twelve-month period.
- (5) Any nonconforming use located in a flood hazard zone is also subject to the regulations of Section 205.091(K)(4).

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(C) Nonconforming Lot Restrictions. The following requirements shall apply to all substandard non-riparian lots that do not satisfy the minimum dimension standards set forth in Development Ordinance. Substandard riparian lots shall comply with the requirements set forth in Section 209.080(L).

(1) Lot Standards:

- (a) Residential design review approval, in accordance with Section 203.034, must be obtained prior to improvement of any nonconforming lot of record for use as a separate home site if the lot was not in separate ownership on August 1, 1983, or any time thereafter.
- (b) No structures shall be expanded or constructed on a substandard lot of record unless Residential design review approval is first obtained from the City in accordance with Section 203.034, unless otherwise in conformance with Section 207.050(F).
- (c) Reconstruction of a structure is defined to mean replacement of three or more of the structure's six structural components (roof, floor, and four walls). Determination as to the extent of structural component replacement shall be made by the Building Official.
- (d) A dwelling shall not be constructed on a nonconforming lot of record unless the lot meets or exceeds 80% of the minimum required lot width, area and depth standards.
- (e) No lot of record shall be used or reused as a separate home site unless it abuts an improved public right-of-way or, if the lot was legally accessed via a private way prior to December 10, 1992, said access may continue to be utilized provided:
- (i) There is no practical way to extend a public street to the property;
  - (ii) The private access is protected by a permanent easement recorded to run with the title of the property; and
  - (iii) The private way complies with the fire apparatus requirements set forth in the Uniform Fire Code.

(D) Design Standards. Any structures constructed, reconstructed or expanded on a nonconforming lot shall comply with the following site and building design requirements:

- (1) Impervious Surface Coverage. Lot coverage shall not exceed 30%.

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- (2) Building Height. The height of the proposed dwelling shall not exceed 28 feet from roof peak to grade (as defined by the Uniform Building Code) on the street side of the dwelling, and the dwelling shall not exceed two stories as viewed from the street.
- (3) Foundation Area. The foundation area of all structures, including dwellings and attached accessory structures, cantilevered areas, detached accessory structures greater than 150 square feet, and covered porches, covered decks, and covered patios shall be limited to 18 percent of the lot area or 1,600 square feet, whichever is greater. If the existing foundation area exceeds the allowed foundation area, the foundation area percentage may be maintained but not increased. Existing foundation area is the foundation area legally present on the property on or before April 17, 2006 or approved thereafter by the City.
- (4) Minimum Setback from the Property Front Line: Twenty-five (25) feet. However, in those cases where the existing setbacks for the two adjacent dwellings exceed this requirement, the setback of the new dwelling or any new addition shall be equal to the average setback of the two adjacent dwellings, plus or minus 10 feet. If one of the immediately adjacent dwellings is located on a lakeshore lot, the front yard setback of such dwelling shall not be utilized. In those cases where there is only one existing adjacent structure which has a setback greater than twenty-five (25) feet, then the setback for the new dwelling or addition shall be equal to the average of twenty-five (25) feet and the setback of the existing adjacent structure, plus or minus 10 feet.
- (5) Architectural Mass. The architectural design and mass of the structure is determined by the City to be compatible with the existing neighborhood character.
- (a) When determining compliance with the existing character of a neighborhood, the City Council may require revisions that include, but shall not be limited to the alteration of: dwelling style (2-story walkout, rambler, etc.); roof design; garage width, height, and depth; garage style (attached versus detached); location and amount of driveway/parking/ sidewalk area; and/or the location and design of doors, windows, decks and porches. The City may also restrict deck enclosures; prohibit accessory structures except for a garage; and require greater than standard setbacks.
- (6) Legally established nonconforming structures may continue but shall not be expanded or moved to a different location on a parcel, except as provided for in Section 207.050(F).

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(E) Residential Design Review Conditions. The City may impose any or all of the following requirements as a condition of approval in order to construct or reconstruct a single family dwelling on a nonconforming lot of record:

- (1) If the nonconforming lot adjoins a lot in the same ownership that exceeds minimum dimension standards, the adjoining lot may be required to be subdivided, to the extent practical, to increase the size of the nonconforming lot in order to reduce the amount of the non-conformity.
- (2) Any other conditions that the City deems necessary in order to satisfy the intent of the Development Ordinance.

(F) Nonconforming Structure Restrictions.

- (1) A structure which is nonconforming due to dimensions or setbacks from property lines may remain at its current size and location and/or may be structurally altered, including an area expansion, provided that the alteration complies with the City's current development regulations and procedures.
- (2) A structure which is nonconforming due to setbacks from property lines, where such nonconformity is the result of a government taking for the construction or improvement of streets, drainage areas, storm water ponding areas, public recreational areas, or public utilities, may be structurally altered so long as the alteration is in compliance with the setback standards.
- (3) A nonconforming structure which is destroyed by fire or other peril to the extent of greater than 50% of its estimated market value as indicated in the records of the county assessor at the time of damage, may be continued through repair, replacement, restoration, maintenance or improvement provided a building permit has been applied for within 180 days of the date of damage. In this case, the City may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a non-conforming structure in the Shoreland District with less than 50% of the required setback from the ordinary high water is destroyed by fire or other peril to greater than 50% of its estimated market value as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.
- (4) Normal repairs and maintenance necessary to keep a nonconforming structure in sound condition shall be permitted.

- (5) If a nonconforming accessory use terminates, the nonconforming accessory structure which it utilizes shall be removed unless such structure can be adapted to conform with the use regulations of its particular zone.
- (6) Any nonconforming structure located in a flood hazard district is also subject to Section 205.091(K)(4).
- (7) The provisions of Section 207.050(F) apply to all structures, including signs.
- (G) Illegal Uses. Owners of illegal uses or structures shall terminate such use and/or remove such structure or otherwise adapt such structure to a permissible use.